FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR.

Writ Petition No. 679 of 2007

(Dadarao Shriramji Kale **VERSUS** The Industrial Court Maharashtra (Amravati Bench) & another**)**

Appeal
Application No.
Writ petition

District :
of 200

Office Notes, Office Memoranda of Coram, appearances, Court's orders of directions and Registrar's orders	Court's or Judge's Orders

Mr. Gordey, counsel for the petitioner.
Mrs. Dangre, Addl. G.P. for R-1.
Mr. Sambre, counsel for the respondent no.2.

CORAM : Smt. Vasanti A. Naik, J.
DATE : 3rd December, 2007.

Heard the learned counsel for the parties.

By this petition, the petitioner impugnes the judgment passed by the Industrial Court, Amravati in complaint U.L.P. No.425/1992 on 18.09.2006, whereby the complaint filed by the petitioner was dismissed.

The petitioner had filed a complaint before the Industrial Court, Amravati for a declaration that the respondent no.2 had committed unfair labour practice under Item 9 of Schedule IV of the M.R.T.U. and P.U.L.P. Act, 1971 by imposing the punishment of stoppage of increment and recovery of Rs.5,760/- from the petitioner. The petitioner also sought an

order setting aside the order passed by the respondent no.2 on 06.07.1992 imposing the aforesaid punishment. The petitioner was appointed as a Round Officer in Hatru Range of Melghat Forest Division. The petitioner was subjected to a Departmental Enquiry on two charges, negligence in duty and committing acts not befitting to government servants. Before initiation of the Departmental Enquiry, the petitioner was called upon to submit his explanation on the two charges. The explanation tendered by the petitioner was not found satisfactory and hence, the departmental enquiry was initiated against the petitioner.

In respect of the charges levelled against the petitioner, the petitioner filed a reply denying the charges. During the pendency of the departmental proceedings, the petitioner admitted his guilt by accepting the charges levelled against him. On acceptance of the two charges levelled against the petitioner, the petitioner was punished by the respondent no.2 by imposing the aforesaid penalty of

stoppage of increment and recovery of Rs.5,760/-. According to the complainant, the punishment inflicted upon the petitioner was shockingly disproportionate and the punishment ought not have been inflicted upon the petitioner because the petitioner had accepted the charges during the departmental enquiry in view of the fact the Presenting officer had given an assurance to the petitioner that he would be punished only in form of a warning if he accepted the charges. It was the case of the petitioner that in the aforesaid background, the petitioner had accepted the charges levelled against him though he had specifically denied the same by filing a reply to the charge-sheet.

The Industrial Court, Amravati considered the evidence and pleadings of the parties and came to a conclusion that the complainant was not seriously challenging the correctness and fairness of the departmental enquiry but, was merely challenging the order inflicting punishment on the ground that he was induced by the Presenting Officer to accept the

charges on an understanding that the punishment would be only in the form of a warning if he accepted the same.

To prove the inducement by the Presenting Officer, the petitioner did not produce any cogent evidence on record. Except the bare word of the petitioner, there was nothing on record to show that the complainant/petitioner was induced by the Presenting Officer to accept the charges during the departmental enquiry. Though the Industrial Court, Amravati has observed in the order that the petitioner had not examined the Assistant Conservator of Forest, the Presenting Officer, or the Inquiry Officer, to substantiate his submission on the question of inducement, it is not in dispute that the petitioner had not examined any person other than the Presenting Officer or the Inquiry Officer to prove that the Presenting Officer had induced the petitioner to accept the charges levelled against him. The Industrial Court, Amravati in the absence of any material evidence except in the form of the oral

evidence tendered by the petitioner, arrived at a conclusion that the petitioner had failed to explain that the admission of the commission of the acts of misconduct was due to inducement by the Presenting Officer.

On the oral evidence of the petitioner, the Industrial Court, Amravati rightly held that it was not possible to come to a conclusion that the petitioner had accepted the charges during the departmental enquiry on account of inducement by the Presenting Officer. Two views were possible in the matter. On an appreciation of the oral evidence of the petitioner and the Industrial Court, Amravati has rightly rejected the submission made on behalf of the complainant that the charges were accepted in view of the inducement by the Presenting Officer. The view taken by the Industrial Court, Amravati is a possible view and there is no reason whatsoever to interfere with the impugned order dated 18.09.2006 in exercise of the jurisdiction under Article 227 of the Constitution of India.

In the facts and circumstances of the case, the petition is liable to be dismissed and is dismissed as such with no order as to costs.

JUDGE

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